

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 591 OF 2020

Devidas @ Rohidas s/o Ukha Narvate
(His son Suresh Narvate is confined
in Open Prison, Paithan as Convict No.5249)
Age 60 years, Occu. Agriculture,
R/o Village Asti, Taluka Sakri,
District Dhule

..Petitioner

Versus

1. The State of Maharashtra,
Through D.I.G. Prisons,
Aurangabad
2. The State of Maharashtra,
through Superintendent,
Open Prison, Paithan,
District Aurangabad

..Respondents

Mr R.A. Jaiswal, Advocate for petitioner
Ms R.P. Gour, A.P.P. for respondents

**CORAM : T.V. NALAWADE AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 7th July 2020

ORAL JUDGMENT :

1. The petition is filed by the father of the prisoner.
2. Rule. Rule made returnable forthwith. With the consent of both the sides, taken up for final disposal.
3. The present proceeding is filed to challenge the order made by the respondent no.1 by which the application for furlough leave is allowed, but onerous conditions are imposed.
4. The petitioner – prisoner is directed to furnish cash security of Rs.2,000/-, to give relative as a surety in the amount of Rs.5,000/- and give personal bond of Rs.5,000/-. It is the contention of the petitioner – prisoner that he is kept in open prison only due to this condition.

5. The learned Counsel for the petitioner submitted that in Full Bench decision of this Court in case of **Dipak s/o Sudhakar Wakatekar Vs. State of Maharashtra**, reported in **2011 ALL M.R. Cri. 1933**, it is made clear by this Court that giving surety is not mandatory when the prisoner is in open prison. He can be released without taking surety.
6. In view of the aforesaid position and as there is nothing adverse against the petitioner, this Court holds that some portion of onerous conditions imposed needs to be set aside.
7. In the result, Criminal Writ Petition is allowed. The petitioner – prisoner is to be released on furlough leave within seven days on his furnishing P.R. bond of Rs.5,000/- and the cash security of Rs.2,000/-. To that extent, the order made by respondent is modified.
8. Rule made absolute in above terms.

(SHRIKANT D. KULKARNI, J.)

(T.V. NALAWADE, J.)

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